



# LEGISLATIVE FINANCE COMMITTEE

## 58<sup>TH</sup> Montana Legislature

Room 110 Capitol Building \* P.O. Box 201711 \* Helena, MT 59620-1711 \* (406) 444-2986 \* FAX (406) 444-3036

### HOUSE MEMBERS

ROSALIE BUZZAS, VICE CHAIRMAN  
GARY BRANAE  
JOHN SINRUD  
RAY HAWK  
TIM CALLAHAN  
RICK RIPLEY

### SENATE MEMBERS

JOHN COBB, CHAIRMAN  
CAROL WILLIAMS, SECRETARY  
MIKE COONEY  
RICK LAIBLE  
DON RYAN  
KEITH BALES

## MINUTES

June 17, 2005

Room 102, State Capitol  
Helena, Montana

### ROLL CALL

Sen. Keith Bales  
Sen. Rick Laible  
Sen. Mike Cooney  
Sen. Carol Williams  
Sen. Don Ryan  
Sen. John Cobb  
Rep. Gary Branae  
Rep. Rosalie Buzzas  
Rep. John Sinrud  
Rep. Ray Hawk  
Rep. Tim Callahan  
Rep. Rick Ripley (seated after election on Friday)  
Clayton Schenck, Legislative Fiscal Analyst  
Diane McDuffie, Committee Secretary

### Call to Order (Tape 1A-001)

**Senator Keith Bales**, Acting Chairman, called the 192nd meeting of the Legislative Finance Committee (LFC) to order at 8:15 a.m. on Friday, June 17, 2005. The meeting was held in Hearing Room 102 of the State Capitol, Helena, Montana.

### 1. Approval of Minutes for November 16, 2004 (Tape 1A-0022)

**Senator Cooney** moved the minutes of the November 16, 2004 meeting be approved as submitted. **VOTE:** The motion carried unanimously.

## **2. Committee Business** (Tape 1A-049)

### **Legislative Finance Committee Vacancy Fill**

Clayton Schenck, Director of the Legislative Fiscal Division, (LFD) informed committee members that they needed to take action to fill Rep. Jackson's vacancy on the LFC. (Rep. Jackson recently resigned) He explained the procedure for filling vacancies (Exhibit 1).

**Senator Bales** opened nominations. **Rep. Sinrud** nominated Rep. Ripley. **MOTION: Senator Laible** moved nominations be closed and the ballots be cast. **VOTE:** Motion carried unanimously. Rep. Ripley was seated shortly thereafter.

### **Election of Officers**

Mr. Schenck explained the rules and procedures on the election of officers (Exhibit 1). **Senator Bales** opened nominations for vice-chair. **Rep. Callahan** nominated Rep. Buzzas. Rep. Callahan moved nominations be closed and the ballots be cast. **VOTE:** Motion carried unanimously. **Senator Bales** opened nominations for chairman. **Senator Cooney** nominated Senator Cobb. **Rep. Hawk** nominated Senator Bales. **Senator Cooney** moved nominations be closed and roll call vote be taken. **Roll Call VOTE:** 7 members voting for Senator Cobb, 5 members voting for Senator Bales. (See attachment) **Senator Cobb**, as newly elected chairman, presided over the remainder of the committee meeting and opened nominations for committee secretary. **Senator Laible** nominated Senator Bales. **Rep. Sinrud** nominated Senator Cooney. Senator Cooney declined the nomination. Senator Bales also declined the nomination. **Senator Williams** volunteered to be committee secretary. Rep. Callahan moved nominations be closed. **VOTE:** Motion carried unanimously.

### **Welcome of New Members/Review of Committee rules/Procedure**

Mr. Schenck explained that in the afternoon there would be an orientation on the Role/Authority of the LFC and Role/Authority of LFD staff and others duties of the LFC. He also announced the resignation of one staff member, Fiscal Analyst Harry Freebourn.

Members of the Revenue and Transportation Committee joined the LFC for the presentation of the 2007 Biennium Legislative Fiscal Report and the 2005 Biennium General Fund Status Report. Those members in attendance were: Senators Jim Elliott, Kim Gillan, Ken Toole, Jerry Black, Sam Kitzenberg and Representatives Dave McAlpin, Jill Cohenour, Cindy Hiner, Karl Waitschies, Bob Lake and Penny Morgan.

### **3. 2007 Biennium Legislative Fiscal Report** (Tape 1A-500)

Mr. Schenck presented the 2007 Biennium Legislative Fiscal Report, which reviews the fiscal actions taken during the 2005 legislative session affecting agency budgets, revenue estimates, and changes in revenue. He highlighted the fiscal issues detailed in the Overview Volume and answered questions from the LFC members.

David Ewer, Director of the Office of Budget and Program Planning (OBPP), responded on behalf of the executive. He told the committee that the executive agreed with the fiscal report.

### **4. 2005 Biennium General Fund Status Report** (Tape 1B-090)

Terry Johnson, Principal Fiscal Analyst, for the LFD, provided a slide presentation and written report on the General Fund Revenue Update Fiscal 2005. (Exhibit 2) His report included: 1) information on current year trends for FY 2005; 2) major HJR 2 revenue sources; 3) economic trends; and 4) a summary of the general fund status.

Mr. Johnson reported that based on data through the end of May 2005, total general fund revenue collections for fiscal 2005 have the potential to exceed HJR 2 revenue estimates by \$105 million. Individual income taxes and corporation license taxes account for much of the growth. A full report on the financial status of the general fund account for fiscal 2005 will be released in October. The revenue trends portray a more optimistic outlook for the future, but a thorough analysis of the “permanent” versus “one-time-only” nature of these collections must be done. LFD staff will analyze revenue trends during late summer and early fall in preparation for developing revenue estimates for the Revenue and Transportation Committee in December. Mr. Johnson addressed questions and concerns from the LFC members.

David Ewer, Director, OBPP responded on behalf of the executive. He told the committee that the executive generally concurred with Mr. Johnson's report and they will continue to monitor the revenues closely.

#### **5. Discussion of Governor's Veto of HB 2 language** (Tape 2A-364)

Greg Petesch, Director of Legal Services, Legislative Services Division (LSD) explained that prior to HB 2 being on the floor for 2<sup>nd</sup> reading, Mr. Schenck, requested a legal review. Several problems with language that were not related to an appropriation, or appeared to impose substantive requirements upon an agency were identified. Upon adjournment of the legislature, the Governor item vetoed an appropriation and several pieces of language in HB 2.

Mr. Johnson subsequently asked for an opinion on whether the Governor had the authority to item veto language included in HB 2. It was concluded that the Governor did not have the authority to item veto language. But it is possible that the Governor may have the authority to item veto language if the Governor item vetoes the appropriations that the language is attached. The Governor cited in a letter to leadership that certain pieces of language were inappropriate for inclusion in HB 2. Senator Cobb filed a declaratory judgment action challenging the authority of the Governor to item veto language. The issue is now before the district court.

Mr. Ewer explained that the language Governor Schweitzer vetoed was reporting requirements that were considered inappropriate substantive demands for information.

Mr. Schenck presented Governor Schweitzer's letter and a summary of the line item vetoed language in order by agency. (Exhibit 3)

**Senator Cobb** suggested formalizing the process to request a legal review of every HB 2.

**MOTION:** Following discussion of the proposed rule change **Rep. Buzzas** moved to direct the legislative fiscal analyst to draft a proposed change to the LFC rules to require a biennial review of HB 2. **VOTE:** Motion passed.

**6. Pension Fund Legislation: Proposal for Legislative/Executive Partnership** (Tape 2B-193)

David Ewer, Director, OPBB reported that the budget office requested from PERS and TRS, actuarial numbers based on June 30, 2005 to determine the soundness of the Public Employee Retirement Plans. The OBPP will pursue options to provide recommendations to the legislature during the special session.

**Senator Bales**, a member of the State Administration and Veteran's Affairs (SAVA) interim committee commented that it is the intention of the SAVA interim committee to do a full and complete analysis of the pension fund.

**Senator Cooney** requested that the LFC receive a brief update on a regular basis including what the interim committee and the budget director are doing.

**7. Other Reports** (Tape 2B-563)

Taryn Purdy, Principal Fiscal Analyst for the LFD, presented the budget amendments and operating plan changes. (Exhibits 4 and 5) She gave a brief explanation of what budget amendments and operating plan changes are and what the role of the committee is. No action was required.

**Rep. Buzzas** pointed out a specific accounting change made by the Department of Public Health and Human Services (DPHHS) that was inconsistent with legislative intent (BCD 6901 870 OP360). Ms. Purdy said that during the interim Lois Steinbeck (LFD), the Department of Administration (DOA), and DPHHS will find a way to resolve this in a way that characterizes client benefits expenditures in a way that is more consistent with legislative intent.

**Senator Cobb** said that the Governor vetoed the language directing DPHHS to work with DOA, the legislative branch, and OBPP to establish accounting guidelines.

Mick Robinson, Administrator, Fiscal Services Division, DPHHS provided a handout addressing the issues regarding operating expenses, and grants and benefits, issued by the Department of

Administration. (Exhibit 6) The department intends to continue working toward a resolution regarding proper accounting.

Jon Moe, Fiscal Specialist, LFD, presented the required reports (Exhibit 7). Generally, the required reports are provided to the committee simply for information purposes. Although it is on the LFC agenda, there are typically no oral reports provided unless there is an issue identified by the staff that needs to be brought to the committee's attention.

#### **8. Performance Management Options** (Tape 3A-621)

Barbara Smith, Associate Fiscal Analyst presented a report and slide presentation on performance management options. (Exhibits 8 and 8a) Ms. Smith explained that performance management is viewed as a comprehensive system to assure that government planning, budgeting and reporting are in direct relation to what government seeks to accomplish. It is a system to link people, process, and ownership of the job of government. Her report provided background on performance management; offered suggestions on how to get the project started; presented potential projects; provided a basic time line; and outlined options for the committee.

Alan Peura, Associate Fiscal Analyst, LFD discussed budgeting with accountability measures in the Montana University System as a model. During the 2001-2002 interim, the Postsecondary Budget and Policy Subcommittee (PEPB) developed a series of policy goals with accompanying accountability measures that would be applied as the indicators of quality performance by the Montana University System. The legislative members of PEPB and the Montana Board of Regents signed an agreement committing themselves to these measures. The Commissioner of Higher Education submits a bi-annual report to each legislative session addressing the university system progress towards these accountability measures.

To proceed with the university system accountability measures component of performance management and budgeting, the LFC may want to consider the extent to which members would like to see the 2009 biennium budget driven in part by these accountability measures. Ms. Smith and Mr. Peura responded to numerous questions and comments.

### *Public Comment*

Sheila Stearns, Commissioner of Higher Education, on behalf of the Board of Regents said they are very open to this pilot project and communicating through PEPB and any other oversight.

Following discussion, **Senator Cobb** said the performance management options would be addressed in the work plan.

### **9. LFC Orientation:**(Tape 3B-700)

#### The Role/Authority of the Legislative Finance Committee

Taryn Purdy presented an orientation and overview of the role/authority of the LFC. (Exhibit 9)

#### The Role/Authority of the Legislative Fiscal Analyst/Staff (Tape 4A-106)

Clayton Schenck presented an orientation on the role/authority of the Legislative Fiscal Analyst and the LFD staff.

#### LFC as Oversight over Information Technology Management (4A- 192)

Greg DeWitt, Senior Fiscal Analyst provided an overview of the LFC's role as the oversight committee for the state's information technology (IT) management and offered options to clarify the expectations of the committee for dealing with IT policy oversight during the 2005/2006 interim. (Exhibit 10)

**MOTION:** **Rep. Ripley** moved the LFC approve Option 1, "Adopt the process described (or a different process defined by the committee) for interacting with the Department of Administration on IT policy Issues." **VOTE:** Motion passed.

### Appointment of Management Advisory Committee (MAC)

**Senator Cobb** appointed the following members to the MAC.

**Rep. Buzzas**  
**Rep. Hawk**  
**Senator Williams**  
**Senator Cobb**

Taryn Purdy provided copies of additional budget amendments (Exhibits 11 & 12) for review. Also provided to the committee was a copy of the HB 2 Companion Bill from October 3, 2002. (Exhibit 13)

### **10. LFD Proposed Interim Work Plan** (Tape 4A-405)

Clayton Schenck presented the LFD 2007 biennium proposed work plan. (Exhibit 14) This report represents a recommendation based upon the legislature, legislators, and staff input as to topics for study and a description of potential work plan topics and options for addressing those options.

Following is a list of work plan items for discussion:

- Examine Expenditure Limitation Statute
- Financial Reliance on Federal Funds/Implication of Deficits
- Long-Range Building Funding Interim Study Recommendation
- Performance Management Options
- Resource Indemnity Trust Statutes and Policies
- State Government Budget Model
- Study Rainy Day Fund
- The Graying of Montana: Effect on State Government Workforce, Revenue, and Expenditures
- Wildland Fire Suppression Statutes and Policies



Following discussion of the various work plan items, the committee decided on the following:

1. Appoint a subcommittee to work on expenditure limitations. Members are Representative Tim Callahan, Chairman; Senator Cooney; Representative Sinrud; and Senator Bales.
2. Appoint a subcommittee to work on RIT/Wildfires cash flow. Members are Representative Ripley, Chairman; Senator Laible; Representative Buzzas; and Senator Ryan.
3. Appoint a subcommittee to work on Financial Reliance on Federal Funds. Members are Representative Sinrud, Chairman; Senator Williams; Representative Branae; and Representative Hawk.

In response to a comment from **Senator Bales**, Mr. Schenck explained that the merit pay issue is included in the work plan but will take an extensive amount of time for both Legislative Services Division and Legislative Fiscal Division to fully implement a merit pay system and an evaluation process.

4. Senator Laible and Representative Buzzas will be committee contacts regarding the Rainy Day Fund study.
5. Direct staff to proceed with the interim phase of the performance management project Option 2a, Direct staff to establish formal oversight on the following projects: 1) IT project in the Judiciary, 2) Regional investigators at the Department of Fish, Wildlife and Parks; and 3) Recruitment and retention of direct care staff at the Montana Veteran's Home. Option 3a, Request that PEPB: 1) Complete each of the accountability measures by establishing benchmarks and measurable performance objectives against the benchmarks; 2) Submit to the LFC by September 2006, a report that includes the completed accountability measures ranked in priority order; and 3) Submit to the LFC by September 2006, a renewal agreement between the PEPB and the Board of Regents regarding the accountability measures. Senator Laible and Senator Ryan were appointed to oversee option 2a involving PEPB.
6. Senator Cooney and Cathy Duncan will work on Long-Range Building.

**Senator Cobb** appointed Senator Williams and Senator Laible to provide oversight on reports to the LFC and proposed a follow-up in September on FTE hired in July.

**11. Committee Business** (Tape 5A-556)

Clayton Schenck presented the items under committee business. (Exhibit 15)

**LFD Cost Report and LFD Operating Plan**

Clayton Schenck presented the LFD Cost Report for Fiscal 2005 at 5/31/05 and the LFD Operating Plan for 2007 biennium. The operating plan was approved.

The Fiscal 2003 appropriation carryover transfer was the last item presented for approval by Clayton Schenck.

**MOTION:** **Senator Bales** moved that pay adjustments authorized in HB 447 for state employees be authorized for the Legislative Fiscal Analyst (Exhibit 16) **VOTE:** Motion passed.

**Next LFC Meeting**

The next meeting of the LFC will be Thursday and Friday, October 6 and 7, 2005.

**Adjournment**

Meeting adjourned at 4:40 p.m.

---

Senator Cobb, Chairman

---

Diane McDuffie, Committee Secretary